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Planting People, Growing Justice: The Three Pillars of New Social Justice Lawyering

ARTIKA R. TYNER*

Introduction

Lawyers play an integral role in the process of facilitating social change.¹ The process of social change draws upon the strength of many individuals to build a strong collective, develop a shared vision, exercise the power required to necessitate change, and join forces in solidarity. Lawyers in particular are trained with the tools needed to critically analyze law and policies, problem solve around complex social issues, and use writing as a form of advocacy. When employing these tools and working collaboratively in partnership with marginalized communities, social change can occur. This practice is the foundation of my theory of “new social justice

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1. S. MINN. REG’L LEGAL SERVICES, WHY THE POOR NEED LAWYERS, <http://www.smrls.org/RTF1.cfm?pagename=Need%20for%20Legal%20Services> (last visited Sept. 15, 2012) (“A lawyer is the key to access to the legal system, and without such access few rights are granted and none is secure.”). The Preamble to the American Bar Association Model Rules of Professional Conduct suggests: “As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice, and the quality of service rendered by the legal profession.” MODEL RULES OF PROF’L CONDUCT Preamble (2010).

lawyering.” This type of lawyering moves beyond the traditional notions of lawyering² to a transformative paradigm which focuses on working collaboratively across professional sectors, geographical boundaries, and community borders to create change. It is this type of collaborative effort that is needed to address the social justice challenges of the 21st century.

Poverty creates a barrier to accessing the legal system and to exercising political power. Currently, there are over 46 million Americans living in poverty. The poor experience marginalization, feel excluded from the rulemaking/public policy process, and lack the allies needed to facilitate change in political agendas and budgetary allocations that impact their social and legal needs. As Barbara L. Bezdek suggests, “[n]eeded now are theories and practices that support liberty and opportunity for the poor and disenfranchised, in their contests with the rich and super-franchised.”³ Further, eighty percent of the civil legal needs of poor people are not being met because of “chronically and grossly” underfunded legal services and pro bono programs.⁴ Legal Services Corporation demonstrated an imminent need for lawyers to assume leadership in protecting “justice for all” through the development of programs and initiatives that address this gap in much needed services.⁵ The legal needs of low-income persons are basic to their survival and ability to thrive. Fundamental legal rights need to be enforced as they relate to such basic necessities as nutrition, health, shelter, income, education, and protection from violent physical abuse, to uphold the foundational tenets of social justice.⁶

In this Article, I examine the role of lawyers in social change initiatives, by identifying their leadership characteristics and exploring the tools they use to build and sustain social change. This Article introduces a new theoretical framework of lawyering that

2. Lawyering traditionally focuses on a system of technocracy where the lawyer is an expert who offers technical services to a client.

3. Barbara L. Bezdek, *To Forge New Hammers of Justice: Deep-Six the Doing-Teaching Dichotomy and Embrace the Dialectic of “Doing Theory”*, 4 U. MD. L. J. OF RACE, RELIGION, GENDER AND CLASS 301, 312 (2004).

4. LEGAL SERVICES CORP., DOCUMENTING THE JUSTICE GAP IN AMERICA: THE CURRENT UNMET CIVIL NEEDS OF LOW-INCOME AMERICANS (2009), available at http://www.lafla.org/pdf/justice_Gap09.pdf.

5. *Id.*

6. SOUTHERN MINNESOTA REGIONAL LEGAL SERVICES, *supra* note 2.

combines social justice lawyering strategies with leadership skills and public policy advocacy techniques, which I refer to as the three pillars of “new social justice lawyering.”⁷ These three pillars are: (1) social justice lawyering,⁸ (2) leadership,⁹ and (3) public policy advocacy.¹⁰ Application of principles of “new social justice lawyering” is integral to the future of social change as coalitions form to address some of the pressing social justice issues of our time to ensure justice, equity, and fairness. Part I of this Article provides an overview of theoretical frameworks related to social justice lawyering. It provides a comparison of traditional lawyering in contrast with notions of social justice lawyering (collaborative lawyering, change-oriented lawyering, rebellious lawyering, and social engineering). Part II of this Article examines the role of lawyer as leader. It explores ways that lawyers can serve as transformational leaders and servant leaders. Part III of this Article introduces three dimensions of public policy advocacy that further social justice initiatives. Part IV will conclude with the findings of this Article.

I. Social Justice Lawyering (Pillar One)

Lawyers serve as the gatekeepers of justice by upholding the

7. I characterize new social justice lawyering as a method of lawyering that draws upon leadership principles, public policy advocacy strategies, and notions of social justice lawyering in order to work in partnership with communities to foster and support social change.

8. Social justice lawyering is analogous to artistry since “art is not a mirror to reflect the world, but as a hammer with which to shape it.” Ascanio Piomelli, *Appreciating Collaborative Lawyering*, 6 CLINICAL L. REV. 427, 431 n. 22 (2000) (quoting VLADIMIR MAYAKOVSKY, THE MACMILLAN DICTIONARY OF QUOTATIONS 32 (1989)). Within this capacity, the lawyer can then exercise one’s legal training as a tool for eradicating subordination and empowering individuals and communities. These efforts aid in furthering social justice initiatives through the promotion of the “goals of equality, of access, opportunity and outcome.” MARCIA BOK, CIVIL RIGHTS AND THE SOCIAL PROGRAMS OF THE 1960S: THE SOCIAL JUSTICE FUNCTIONS OF SOCIAL POLICY 15 (1992).

9. Lawyers can play an active role in filling the void of the leadership crisis. By serving within this dimension, lawyers have the power to transform systems through the furtherance of social justice initiatives and cultivation of their leadership capacity.

10. In most circumstances, a lawyer can only act within the parameters of traditional lawyering; however, inherent in most social justice efforts is also a need for policy change. This need may require the lawyer to play an active role in policy reform and in mobilizing community engagement.

rule of law, principles of democracy, and foundational tenets of justice. Lawyers traditionally fulfill this role when a client calls upon them to offer legal advice, provide access to the legal system, and aid in navigating the system.¹¹ The client seeks a lawyer to address a legal issue and the lawyer crafts the legal arguments.¹² López has characterized this traditional model as “regnant lawyering” when a lawyer is the primary actor in addressing a client’s legal matter.¹³ The client calls upon the lawyer to address a legal issue and offer solutions based upon his or her legal expertise.

Within this role, lawyers have created a model of technocracy in which lawyers are the problem solvers and exercise their power based upon their professional credentials to resolve client legal matters.¹⁴ The lawyer acts within his or her knowledge base of the functioning of the legal system to address a client’s legal problem¹⁵ by utilizing legal skills such as fact investigation, case strategy development, and analytical perspectives. Lawyers then translate a client’s claim into a legal framework through legal research and analysis. In essence, the client pays the lawyer to serve as a technical expert and reach the most favorable outcome for his or her client. Within this framework, at least in the case of subordinate or non-legally savvy clients, the clients are perceived as helpless dependents in need of rescue from the expert lawyer.¹⁶ This model of regnant lawyering has a negative impact on both the client and lawyer. The clients may become frustrated with the attorney since they lack control of the case strategy and future course of action. In turn, the lawyer is left with a myopic view of the client’s goals. Regnant lawyers tend to assume that the client’s primary goal is to win the case and address a narrow legal problem, thus they may fail to gain an understanding of the how the client’s struggle fits into a larger

11. Nancy Cook, *Looking for Justice on a Two-Way Street*, 20 WASH. U. J. OF L. & POL’Y 169, 200 (2006).

12. Lucie White, *To Learn and Teach: Lessons from Driefontein on Lawyering and Power*, 1998 WIS. L. REV. 699, 770 (1988).

13. GERALD P. LÓPEZ, *REBELLIOUS LAWYERING: ONE CHICANO’S VISION OF PROGRESSIVE LAW PRACTICE* (1992).

14. See generally HARRY CHATTEN BOYTE & DON SHELBY, *THE CITIZEN SOLUTION: HOW YOU CAN MAKE A DIFFERENCE* 143 (2008) (professionals tend to operate in a model of technocracy by acting as experts who fix problems and fail to work collaboratively with other citizens).

15. Piomelli, *supra* note 8, 437–438.

16. Piomelli, *supra* note 8, 459.

context of the quest to achieve social justice.

A. An Introduction to Social Justice Lawyering

The traditional role of lawyering falls short in addressing the needs of subordinate and oppressed groups, and creating social reform, thus obstructing access to justice, fairness, and equity.¹⁷ Lawyers with a passion for social justice have expanded the traditional definition of “lawyering” by exploring the role of lawyers in social justice initiatives in pursuit of equal justice under the law. Social justice lawyering challenges lawyers to enlist in the furtherance of a particular social justice cause in partnership with the impacted community. This lawyering for a cause occurs when a lawyer advocates for social justice through a variety of channels such as: litigation, community organizing, public education/outreach, and legislative advocacy, “to advance a cause past its current legal limitations and boundaries[.]”¹⁸

While engaging in social justice lawyering, the lawyer aids in empowering clients and promoting their self-reliance.¹⁹ Client-centeredness is paramount when the goal in mind is to facilitate client autonomy and empower clients to engage in activism. This model focuses on giving voice to the voiceless, providing power to the powerless, and aiding in overcoming subordination. For instance, it explores how social factors, such as race, class, or gender and challenges disparate outcomes, impact procedural fairness. Another example of this empowerment model examines how certain policies result in systemic disparities that negatively impact certain communities. Furthermore, social justice lawyering also seeks to uphold the professional ethical aspirations of the legal bar. The American Bar Association Model Rules of Professional Conduct (2010) suggest: “As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice, and the quality of service rendered by the

17. Gerald P. López, *The Work We Know So Little About*, 42 STAN. L. REV. 1, 13 (1989) (challenges lawyers to explore how to address subordination and engage in lawyering together towards change).

18. BLACK'S LAW DICTIONARY 251 (9th ed. 2009).

19. Corey Shdaimah, *The Practice of Public Interest Law: Power, Professionalism, and the Pursuit of Social Justice* (Mar. 1, 2005) (unpublished Ph.D. dissertation, Bryn Mawr College) (available via ProQuest Digital Dissertations at AAT 3172573).

legal profession.”²⁰

B. Theoretical Frameworks: Social Justice Lawyering

Over time, legal scholars have developed and introduced specific genres of social justice oriented lawyering that challenge lawyers to reconstruct traditional norms related to the practice of law. These include: collaborative lawyering,²¹ change-oriented lawyering,²² rebellious lawyering,²³ and social engineering.²⁴ These genres of social justice lawyering aid lawyers in establishing a new vision of lawyering that focuses on transforming systems, promoting equity, and establishing partnerships between lawyers and communities. Each of these theories shares the common goal of lawyers working in partnership with key allies to challenge injustice and establish equitable outcomes.

Each framework establishes the significance of partnering with the community (impacted by marginalization or oppression) to effect change. Social justice in action requires the lawyer to act with and on behalf of those who are experiencing suffering caused by social neglect, social decisions, or social structures and institutions.²⁵ Social justice lawyering challenges the lawyer to examine the root causes of injustice and their impacts on marginalized populations in order to effectuate change.²⁶ Solidarity draws this work together as a part of a collective effort with lawyers and impacted communities, groups, and individuals, which “means together we search for a more just world and together we work for a more just world.”²⁷ The essence of justice recognizes the lawyer’s responsibility to contribute to the common good, create access to justice, and provide resources to the community in order to preserve the rights of the community.²⁸

20. MODEL RULES OF PROF’L CONDUCT Preamble (2000).

21. Piomelli, *supra* note 8, at 433.

22. White, *supra* note 12, at 699.

23. López, *supra* note 13.

24. GENNA R. MCNEIL, GROUNDWORK: CHARLES HAMILTON HOUSTON AND THE STRUGGLE FOR CIVIL RIGHTS 84 (1983).

25. John A. Powell, *Lessons From Suffering: How Social Justice Informs Spirituality*, 1 U. ST. THOMAS L.J. 102, 127 (2003).

26. William Quigley, *Letter to a Student Interested in Social Justice*, 1 DEPAUL J. FOR SOC. JUST. 7, 19 (2007).

27. *Id.* at 21.

28. See generally JERRY WINDLEY-DAOUST & LORRAINE KILMARTIN, LIVING JUSTICE AND PEACE: CATHOLIC SOCIAL TEACHING IN PRACTICE (2008) (provides general guidance

Collectively, lawyers and community members can work together to realize their vision of change in the landscape of America's legal system.

A lawyer engaging in social justice lawyering critiques the laws by seeking to hear those whose voices are not traditionally heard (like the voices of children, women, migrant workers, communities of color, and the elderly) and provides an opportunity for their voices to be heard.²⁹ The social justice lawyer seeks to listen to their stories and give "voice" to their concerns by formulating a new narrative that is community-centered and social justice oriented. Quigley provided a framework for engaging in this process of reflective listening for lawyers.³⁰ This framework requires social justice oriented lawyers to: (a) engage in active listening to understand the cause of injustice; (b) analyze the power structures and identify who benefits from the injustice; (c) explore the evolution of the law; and (d) examine the structural challenges that impact those of a particular race, class, and gender.³¹

Through this process, lawyers build relationships with people and organizations that are necessary to challenge subordination and remedy injustices. Additionally, opportunities for establishing solidarity and engaging in community building emerge. With each encounter, the lawyer expands his/her understanding of the experiences of the community and the daily challenges that they encounter. This understanding encompasses any exploration of both the legal needs and social needs of the community. Only then can a social justice lawyer act in a holistic, client-centered manner that is responsive to the community's needs, desires, and perspectives.

Each theoretical framework provides its own specific guidance on how to achieve this goal by utilizing a range of strategies that include: building a shared vision of justice, engaging in mutual learning, and conducting qualitative research. It is important to note that the three frameworks are deeply interrelated and have more similarities than differences. Therefore, the following paragraphs explore how each framework informs the body of research related to

for students on how to develop values-based leadership capacity and seek social change in order to promote the common good and respect human dignity).

29. Quigley, *supra* note 26, at 17.

30. *Id.*

31. *Id.*

social justice lawyering more generally and provides key tools for building and sustaining social change.

1. Collaborative Lawyering

The collaborative lawyering theoretical framework establishes the importance of collective engagement in building a shared vision of justice through reflection, problem solving, and mutual learning processes. Collaborative lawyering extends beyond the traditional notion of lawyering, which explores how to solve a legal dilemma and begins to examine the participatory and democratic questions: "What shall we do together?" and "Who shall we become as a result?"³² It is a joint partnership with clients that can effectuate social change.³³ Collaborative lawyering promotes client autonomy, upholds respect, and fosters a sense of equality while furthering collaborative efforts.³⁴

Collectively, clients and lawyers work together to change the world with the ultimate goal of lawyering against subordination. Subordination, in this context, refers to being under the authority or control of another, which restricts one's power to act. Both clients and lawyers recognize and unveil their power to act in partnership to solve social justice problems marginalized communities and populations face.³⁵ The underlying theme is that their agency focuses on building leadership capacity within communities as well as collaborating to challenge systems and policies that restrict their power unjustly. This is a learning process that focuses on reciprocal efforts in which everyone learns and everyone teaches.³⁶ All parties engage in active listening, challenge one another, and problem solve together.³⁷ The lawyer's role is not to merely work for an individual client, but to work with community partners to reach a shared outcome and vision of justice (which is a foundational tenet of social justice lawyering frameworks).³⁸

Similar to other social justice lawyering frameworks, both the

32. Ascanio Piomelli, *The Democratic Roots of Collaborative Lawyering*, 12 Clinical L. Rev. 541, 555 (2006).

33. *Id.* at 555.

34. Shdaimah, *supra* note 19.

35. Piomelli, *supra* note 8 at 433.

36. *Id.*; Piomelli, *supra* note 32, at 555.

37. Piomelli, *supra* note 8.

38. *Id.*

collaborative lawyer and the community learn from each other as they foster social change. This learning process begins with candid and courageous conversations among the lawyer, client, and community. These conversations are much deeper than a traditional lawyering approach, and are a larger focus in this framework than in the other ones. On one hand, collaborative lawyers gain invaluable insights about the daily lives of community members, root causes of the issue, and how the issues impact individuals and communities. On the other hand, clients/communities share their problem solving approaches, practical wisdom, and insights. Lawyers view clients as assets who provide key insights and have the capability to engage in reform efforts as activists for change.³⁹ Interactions between clients and collaborative lawyers create a fertile ground for collective engagement. This process shares similarities with the qualitative methodology of ethnography because the lawyer plays a role similar to that of a participant observer.⁴⁰

Collaborative lawyers as participant observers seek to immerse themselves in the experiences of those surrounding them (community members, allies, opponents) and gain a deeper appreciation for their daily life experiences. The lawyer enters the community as a guest with the hopes of gaining knowledge through community engagement.⁴¹ The collaborative lawyer partners with clients to reach a shared vision of social change. The client does not simply hand over a legal problem to a lawyer; instead, the collaborative lawyer utilizes his/her legal training to establish a coalition of support for reform. This is distinguishable from traditional legal practice because the lawyer is cognizant of the limitations of his/her professional role and resists the temptation to impose his/her own legal culture, views and expectations on their clients. Collaborative lawyers "aim to join with clients, communities, and any allies they can enlist in collective efforts to change the world and through the process each other."⁴² Together, the collaborative lawyer and key stakeholders engage in problem

39. Piomelli, *supra* note 8, at 435, 437.

40. ROBERT K. YIN, CASE STUDY RESEARCH: DESIGN AND METHODS 11, 14 (6th ed. 2009).

41. Cook, *supra* note 11, at 200.

42. Piomelli, *supra* note 32, at 559.

solving to address long-standing injustices.⁴³

Further, the collaborative lawyer is a co-equal and not a dominant decision maker.⁴⁴ The collaborative lawyer and community work together to frame, strategize, and implement the community's strategic plan.⁴⁵ Both clients and collaborative lawyers can discover a sense of renewed hope due to the recognition of the community's power to act. This recognizes the power of the ordinary citizens to influence social change by engaging in participatory democracy.

The collaborative lawyer understands that an individual must exercise power to reach desired outcomes and transform systems. They recognize that each individual has the capacity to utilize power effectively and can serve as a change agent. Power is characterized as dynamic and ever changing. It can be influenced through relationships; in essence, power is a mechanism that individuals can employ to initiate the community's collective action.⁴⁶ French philosopher, Michel Foucault, theorized power as a mechanism that yields productivity that can produce change in actions, beliefs, perceptions, and rituals.⁴⁷ The collaborative lawyer encourages others to identify their power sources and utilize this power to initiate the process of social action. "Collaborative work often is required to create enough 'power with' to challenge 'power over'["⁴⁸ The calculated exercise of "power with" lays the foundation for the process of social change. Lawyers can apply these principles to any situation where they exercise "power with" the community to challenge a social injustice. One example includes a lawyer partnering with the community to address the need for reintegration programming for African American males who have had contact with the criminal justice system or are at-risk. Another

43. Bill Gates, *A Vital Mission: Reflections on the Value of Public Service by the Private Bar*, NEWSWEEK, Oct. 22, 2006, available at <http://www.thedailybeast.com/newsweek/2006/10/23/a-vital-mission.html>.

44. Piomelli, *supra* note 8.

45. Piomelli, *supra* note 32, at 555.

46. *Id.*

47. MICHAEL FOUCAULT & C. GORDON, *POWER KNOWLEDGE: SELECTED INTERVIEWS AND OTHER WRITINGS, 1972-1977*, 88 (Colin Gordon ed., 1980).

48. Marshall Ganz, *Leading Change: Leadership, Organization, and Social Movements*, in *HANDBOOK OF LEADERSHIP THEORY AND PRACTICE* 509, 535 (Nitin Nohria & Rakesh Khurana eds., 2010).

example is a partnership to assess the civilian review complaint process that evaluates community grievances of alleged police brutality and misconduct.⁴⁹ In each scenario, the community's collective engagement necessitates the process of change when they realize that their exercise of power can lead to the very systemic change they seek to achieve.

2. *Change-Oriented Lawyering*

Change-oriented lawyering builds upon themes of collaborative lawyering by offering guidance for lawyers and community members acting together in furtherance of social change. Unique to this theory is an explicit focus on empowerment—empowering the community to create change and empowering them to resist subordination. Additionally, change-oriented lawyering emphasizes the importance of social justice education and examines the multidimensional nature of power.

A lawyer employing the tools of change-oriented lawyering seeks to change the dynamics of power and subordination by drawing upon the strengths of the community served.⁵⁰ This differs from the traditional model of lawyering where the community would expect the lawyer to solve its problems. Under the traditional model of lawyering framework, litigation is the most effective and best solution to all of the community's problems. However, the change-oriented lawyer works in partnership with the community to facilitate social change. The lawyer is sensitive to the needs of the community and seeks to empower the community. This process mirrors a shared-power model of leadership in which leaders are called upon to engage in joint problem solving and share responsibility.⁵¹

49. Nekima Levy-Pounds & Artika Tyner, *The Principles of Ubuntu: Using the Legal Clinical Model To Train Agents of Social Change*, INT'L J. CLINICAL LEGAL EDUC., Dec. 2008, at 5-20. The Community Justice Project ("CJP") is an award-winning civil rights legal clinic at the University of St. Thomas School of Law Interprofessional Center for Counseling and Legal Services. The purpose of the CJP is to achieve equal justice under the law for underserved communities. The CJP Director, Professor Nekima Levy-Pounds, and Clinical Faculty, Dr. Artika Tyner, train and supervise law students as they use their legal skills to address emerging issues related to civil rights law. The goal of the CJP is to train law students to become not just lawyers, but engineers of social change.

50. White, *supra* note 12, at 699, 724, 747.

51. PETER G. NORTHOUSE, *LEADERSHIP: THEORY AND PRACTICE* 258 (5th ed. 2010); *see generally* BARBARA CROSBY & JOHN BRYSON, *LEADERSHIP FOR THE COMMON GOOD*:

This is a community-initiated process and it begins when the community extends an invitation to the lawyer to become a part of the struggle for resistance. The lawyer aids the community members in fostering their strengths and developing ideas together. Also, the lawyer engages in an inter-professional approach. In Lucie White's case study of Driefontein, South Africa, the lawyer utilizes an inter-professional model in conjunction with the organizer.⁵² The community was seeking assistance with resisting the government-mandated removal from its village to designated homelands.⁵³ The lawyer received an invitation from the community to aid in facilitating the process of initiating action. The lawyer worked in partnership with the organizer to aid the community in appreciating the full measure of its own power.⁵⁴ These professionals, along with community members, used their imaginations to further social change efforts. The organizer aided the community in carrying out their ideas through implementation phases, which included the development of a community health clinic and legal clinic. This was a holistic approach that sought to address the root causes of the community's social problem.⁵⁵

The change-oriented lawyer seeks to empower the community in resisting oppression and subordination. White utilizes a three-tiered model to explore the multidimensional nature of subordination and offers possible legal responses.⁵⁶ The first dimension is the traditional case-by-case litigation. The main focus at this level is to obtain favorable results through litigation. This dimension acknowledges that the foundation of the law is acceptable but questions its application. The second dimension is law as a public conversation. As a public conversation, law creates opportunities for public policy reform. The third and final dimension focuses on *lawyering together toward change* or *change-oriented lawyering*. It is a dialectic process of reflection, which leads to action and promotes mutual learning. Both community members and lawyers participate in social justice education within an informal

TACKLING PUBLIC PROBLEMS IN A SHARED-POWER WORLD (2d ed. 2005).

52. White, *supra* note 12, at 699.

53. *Id.* at 706.

54. *Id.* at 767.

55. *Id.* at 724, 729.

56. *Id.* at 747, 768.

setting.

The goal of social justice education is to enable people to develop the critical analytical tools necessary to understand oppression and their own socialization within oppressive systems.⁵⁷ In addition, social justice education develops the agency and capacity within people to change oppressive patterns and behaviors in themselves and in the institutions and communities of which they are a part.⁵⁸ This educational process serves as a mechanism of empowerment because communities and lawyers recognize the power within their hands to challenge subordination, exercise power, and create systemic change.

Within these three dimensions, power dynamics are at play. Professor Lani Gunier⁵⁹ has identified three dimensions of this community-led exercise of power. Professor Gunier contrasts the dimensions with participating in a game. Within the first dimension, the conflict manifests itself while a person manipulates the rules of game for his/her gain. The second dimension examines the intents and desires of the game designers and how they use their power to shape the rules. Professor Gunier critiques that most social justice oriented lawyers operate within this second dimension by seeking to rewrite the rules of the game; however social change occurs in the third dimension.⁶⁰ The third dimension seeks to understand the story of power, which explores why winners deserve to win and why losers continually lose. Within this dimension, the change-oriented lawyer deconstructs the power of those in authority. According to Foucault, this requires deconstructing how those in authority formulate the "subjugated knowledge" and control systems through the "regime of truth" which aids the change-oriented lawyer in increasing the capacity of community members to exercise their power in manifesting change.⁶¹

Most importantly, within this third dimension, lawyering together toward change empowers the community to develop

57. Lee A. Bell, *Theoretical Foundations of Social Justice Education*, in *TEACHING FOR DIVERSITY AND SOCIAL JUSTICE* 1, 2 (Maurianne Adams, Lee Anne Bell, & Pat Griffin eds., 2d ed. 2007).

58. *Id.*

59. Ashly Hinmon, *Achieving Justice Through Rebellious Lawyering: Restructuring Systems of Law and Power for Social Change*, 6 *MODERN AM.* 15, 15-16 (Spring 2010).

60. *Id.*

61. FOUCAULT, *supra* note 47, 131.

innovative and sustainable solutions to their own legal problems.⁶² Myles Horton, a social reformer and co-founder of Highlander Folk School, encouraged community-based problem solving and collaborative processes when he stated, "Get the people together and trust that the solution will arise from them."⁶³ In the process of change-oriented lawyering, the people come together to orchestrate change, engage in agenda setting, and challenge inequitable policies. The people, with the assistance of lawyers (who are committed to lawyering together toward change) exercise their power to facilitate mutual learning, initiate the process of social action, and exercise the power necessary to create systemic change.⁶⁴

White's research links lawyering together toward change with community-building to create an image of community that is connected, restorative, and transformative.⁶⁵ This sense of connectedness is representative of a circle. "The circle is a sacred symbol of life . . . individual parts within the circle connects with every other; and what happens to one, or what one part does, affects all within the circle."⁶⁶ It also recognizes the transformative power of the community because "[i]n every community there is work to be done. In every nation, there are wounds to heal. In every heart there is the power to do it."⁶⁷ The lawyer plays a vital role in community-building by exercising legal skills to deconstruct current oppressive power structures and replace them with more just systems.

In essence, communities use power to initiate social change and compel action. As White suggests, "[the] most powerful theory, in the end, may be our practice of deliberating together on our experience and our action."⁶⁸ The community then realizes that their strength lies with their capacity to deliberate together and take

62. White, *supra* note 12, at 737.

63. MYLES HORTON, JUDITH KOHL & HERBERT KOHL, *THE LONG HAUL: AN AUTOBIOGRAPHY* 98 (1991).

64. White, *supra* note 12.

65. See generally *id.*

66. WEST DOVER SCHOOL, *About Our School*, CALGARY BOARD OF EDUCATION, <http://schools.cbe.ab.ca/b357/about.htm> (last visited Mar. 1, 2013) (quoting Virginia Driving Hawk-Sneve).

67. Marianne Williamson, *Maurianne Williamson Quotes*, THINKEXIST.COM, available at http://thinkexist.com/quotation/in_every_community-there_is_work_to_be_done-in/216307.html.

68. White, *supra* note 12, at 769.

action.

3. *Houston's Social Engineering*

Dean Charles Hamilton Houston of Howard Law School espoused social engineering as a theory of social justice lawyering.⁶⁹ The theory focused on a strategic litigation approach to foster social change efforts and initiate social justice movements. Lawyers can use their legal training to serve as social architects⁷⁰ and engineers of social change.⁷¹ Houston characterized the role of the lawyer as a social engineer; he believed that a lawyer was "either a social engineer or . . . a parasite on society."⁷² A lawyer as a social engineer is "the mouthpiece of the weak and a sentinel guarding against wrong."⁷³ Houston's experience with racism and discrimination while serving in the military influenced his personal commitment to becoming a social engineer. Following his military service, he vowed to gain power by speaking with fluency the language of the law (*i.e.*, the language of power). Houston's commitment to wage a relentless battle against injustice was manifested in these words:

[I vowed] that I would never get caught again without knowing something about my rights; that if luck was with me, and I got through this war, I would study law and use my time fighting for men who could not strike back."⁷⁴

Houston fulfilled his commitment and pursued a law degree with great vigor at Harvard Law School.

Following his social engineering philosophy, Houston made it his mission to bury Jim Crow as well as end segregation, and thereby paved the proverbial "road of freedom" for the Civil Rights Movement. Houston crafted a legal plan to end racial segregation

69. Michael Wilson Reed, *The Contribution of Charles Hamilton Houston to American Jurisprudence*, 30 HOW. L.J. 1095, 1097 (1987).

70. NORTHOUSE, *supra* note 51, at 183.

71. MCNEIL, *supra* note 24, at 71; Reed, *supra* note 69 at 1095.

72. MCNEIL, *supra* note 24, at 84.

73. Roger A. Fairfax, Jr., *Wielding the Double-Edged Sword: Charles Hamilton Houston and Judicial Activism in the Age of Legal Realism*, 14 HARV. BLACKLETTER L.J. 17, 26 (1998).

74. RAWN JAMES JR., *ROOT AND BRANCH: CHARLES HAMILTON HOUSTON, THURGOOD MARSHALL, AND THE STRUGGLE TO END SEGREGATION* 41 (2010).

nationwide in all public spaces (schools, buses, trains) nationwide.⁷⁵ He began this long-term strategic plan by litigating cases related to equalization with an ultimate goal in mind of establishing precedent that separate could never be equal through the litigation of school integration cases.⁷⁶ He commissioned black lawyers to join in the fight against segregation in schools by warning, "We need to break this up or perish."⁷⁷ Dr. Martin Luther King, Jr. acknowledged Houston's work in social engineering and the contributions of others doing the same type of work during a speech to the Bar Association of the city of New York, when he stated:

You should be aware, as indeed I am, that the *road to freedom* is now a highway because lawyers throughout the land, yesterday and today, have helped clear obstructions, have helped eliminate roadblocks, by their selfless, courageous espousal of difficult and unpopular causes.⁷⁸

Houston also paved the "road to freedom" in his classroom. Houston demonstrated not only excellence in the practice of law, but developed a pedagogy of social engineering. As a law professor, he passionately trained law students to use the law as a tool to change systems and establish civic engagement. "He understood that if it were not for teachers and scholars, the law might never be more than precedent—judgments confirming the correctness of earlier judgments."⁷⁹ Houston trained his students to think outside the box. Instead of merely looking to the precedent and black letter of the law, Houston taught his students to critically examine the spirit of the law and the very essence of justice. His pedagogy went beyond the traditional case analysis methodology (e.g., Langdell model) by training law students to engage in systems reform to overturn *Plessy v. Ferguson* and bury Jim Crow once and for all.⁸⁰

Houston instilled in his students a sense of determination and

75. *Id.* at 63.

76. *Id.* at 66.

77. MCNEIL, *supra* note 24, at 138.

78. *Id.* at xv.

79. MCNEIL, *supra* note 24, at 63.

80. JAMES, *supra* note 74, at 24; see generally DIANA KLEBANOW & FRANKLIN L. JONAS, PEOPLE'S LAWYERS: CRUSADERS FOR JUSTICE IN AMERICAN HISTORY 203 (2003); McNeil, *supra* note 24.

perseverance in fighting for justice. His most notable slogan was "no tea for the feeble, no crepe for the dead," which reminded his students that engaging in social engineering would require hard work, determination, and perseverance.⁸¹ Houston's power to transform minds in the classroom and train social engineers is demonstrated through the success of students and protégés, like Justice Thurgood Marshall, Oliver W. Hill, Leslie S. Perry, Coyness L. Ennix, Edward P. Lovett, and James G. Tyson.⁸² The latter two achieved historical stature as federal jurists. These lawyers were instrumental in transforming the road to freedom into a highway of justice. It has been duly noted that Houston either taught or mentored all of the black lawyers who participated in the Civil Rights Movement.⁸³

Through his instruction, Houston challenged law students to be leaders in paving a road to freedom that could not be destroyed. Houston characterized a social engineer as a "highly skilled, perceptive, sensitive lawyer who understood the Constitution of the United States and knew how to explore its uses in the solving of problems of local communities and in bettering conditions of the underprivileged citizens."⁸⁴ Social engineering required the following social obligations for attorneys:

- (1) to pioneer the cause of group advancement; (2) to advocate for those in need of assistance and protection against moral injustice; (3) to work as peacemaker in the pursuit of social change; (4) to exploit the flexibility within the American legal regime and to use law as an instrument for social change; and (5) to advance a litigation strategy that establishes firm precedent while simultaneously generating favorable public opinion and grass-roots support.⁸⁵

81. DOUGLAS O. LINDER, BEFORE *BROWN*: CHARLES H. HOUSTON AND THE *GAINES* CASE, <http://law2.umkc.edu/faculty/projects/ftrials/trialheroes/charleshoustonessayf.html> (last visited Mar. 31, 2013).

82. MCNEIL, *supra* note 24, at 82.

83. *See generally id.* at 59-128.

84. *History*, HOWARD UNIVERSITY SCHOOL OF LAW, <http://www.law.howard.edu/19> (last visited Oct. 20 2012).

85. MCNEIL, *supra* note 24, at 217.

Houston's life journey demonstrates the courage needed to use the leadership characteristics of a social engineer. The process of social engineering provided a framework for building a social reform movement and initiating coalition-building. Houston strengthened and equipped local communities to fight for their rights and derive model procedures from test cases that communities in other jurisdictions could use.⁸⁶ The test cases began with equalization of state-sponsored graduate schools.⁸⁷ Litigation related to equal pay for teachers was also a part of the series of test cases. These test cases were incremental steps in establishing the framework for *Brown v. Board of Education*,⁸⁸ which overturned the doctrine of separate but equal outlined in *Plessy v. Ferguson*.⁸⁹ Thus, Justice Marshall stated, "The school case was really Charles' victory. He just never got a chance to see it."⁹⁰

Moreover, Houston was instrumental in establishing political power and cultivating civic engagement within the African American community. Houston was able to engage in coalition-building since litigation attracted attention to the NAACP and aided in building notoriety, which in turn attracted the masses to join the NAACP. Houston also awakened the consciousness of the general public through his publications, which served as a call to action. Examples include: *The Need for Negro Lawyers* (1935), *Don't Shout too Soon* (1936), *Educational Inequalities Must Go* (1935) and *Cracking Closed University Doors* (1935).⁹¹ These publications served as advocacy tools to ignite the passion of the masses to fight in the Civil Rights Movement. Houston's legal strategy influenced *Smith v. Allwright*,⁹² which his protégé, Justice Thurgood Marshall, argued. This case advanced civil rights protections by creating equal access to the ballot box.⁹³

86. JAMES, *supra* note 74, at 66.

87. *Id.* at 69.

88. *Brown v. Board of Education*, 347 U.S. 483 (1953).

89. *Plessy v. Ferguson*, 163 U.S. 537 (1896).

90. KLEBANOW & JONAS, *supra* note 80.

91. Charles H. Houston, *The Need for Negro Lawyers* 4 J. NEGRO EDUC. 49 (1935); Charles H. Houston, *Don't Shout Too Soon*, THE CRISIS MAGAZINE (Mar. 1936); Charles H. Houston, *Educational Inequalities Must Go*, THE CRISIS MAGAZINE (Oct. 1935); Charles H. Houston, *Cracking Closed University Doors*, THE CRISIS MAGAZINE (Dec. 1935).

92. *Smith v. Allwright*, 321 U.S. 649 (1944).

93. JAMES, *supra* note 74 at 186; NAACP Legal History, NAACP, <http://www.naacp.org/pages/naacp-legal-history> (last visited Mar. 31, 2013).

4. *Rebellious Lawyering*

Rebellious lawyering provides a theoretical framework for action research and fostering cooperative, collaborative processes. Rebellious lawyers' vision of social justice requires proactiveness in effectuating social change by reflecting and "usher[ing] in the world we hope to create."⁹⁴ In envisioning changing the world as we know it, one's imagination can be unleashed.⁹⁵ The rebellious vision supports a concerted organized effort against subordination, based upon factors such as: race, gender, socioeconomic status, and age.⁹⁶ Rebellious lawyers work diligently to "dismantle those social structures that reinforce hierarchy and injustice."⁹⁷ Rebellious lawyering recognizes the ability of the rebellious lawyer and clients/communities to work together to realize a vision of equality and justice. Rebellious lawyering moves beyond working for a client to working collaboratively with a client and allies.⁹⁸

The ideology of rebellious lawyering is based upon the premise of fostering cooperative and collaborative processes. Rebellious lawyers integrate themselves and their clients into "a large network of cooperating problem-solvers."⁹⁹ Traditionally, a lawyer is the sole problem solver who has the capacity and training to frame the issues and identify the legal problem. The lawyer serves as an expert who asks questions to confirm his/her course of action and maintain his/her power.¹⁰⁰ To that end, traditional lawyering is non-participatory and isolated given that lawyers envision themselves as "self-perceived visionaries who make decisions for others by cutting themselves off from nearly all that surrounds them."¹⁰¹ Within this model of lawyering, community members and clients play a very limited role by simply allowing the lawyer to solely formulate solutions.

Contrary to the traditional role of lawyers as experts, López

94. LÓPEZ, *supra* note 13, at 382.

95. Gerald P. López, *Critical Race Lawyering: Living and Lawyering Rebelliously*, 73 FORDHAM L. REV. 2027, 2041–54 (2005).

96. Gerald P. López, *Shaping Community Problem Solving Around Community Knowledge*, 79 N.Y.U. L. REV. 59, 67 (2004).

97. Hinmon, *supra* note 60, at 16.

98. López, *supra* note 17, at 12.

99. LÓPEZ, *supra* note 13, at 55.

100. López, *supra* note 95.

101. López, *supra* note 17, at 12.

envisions rebellious lawyering as collaboration between co-eminent institutions and individuals where each learns from each other.¹⁰² Each participant in this process has the opportunity to learn and grow, in addition may offer a unique, diverse perspective in the problem solving process. The process of problem solving begins with storytelling because stories create a sense of a shared experience and enable us to live with a sense of solidarity. Stories are the framework for creating a social justice-oriented narrative since they aid in identifying the relevant audience, telling the story of a lived experience, and compelling others to act to bring forth the desired change.¹⁰³

Through storytelling, the diverse experience of collective subordination facilitates social change and creates shared space for ongoing dialogue. By sharing these stories, the lawyer and community seek to build key alliances and establish collaborative networks that challenge others to change the world to mirror the one they desire to see.¹⁰⁴

In this idea—what I call the rebellious idea of lawyering against subordination—lawyers must know how to work with (not just on behalf of) women, low-income people, people of color, gays and lesbians, the disabled, and the elderly. They must know how to collaborate with other professionals and lay allies rather than ignoring the help that these other problem-solvers may provide in a given situation. They must understand how to educate those with whom they work, particularly about law and professional lawyering, and, at the same time, they must open themselves up to being educated by all those with whom they come into contact, particularly about the traditions and experiences of life on the bottom and at the margins.¹⁰⁵

This perspective acknowledges the role of lawyer as a problem solver in partnership with communities to shape problem-solving

102. López, *supra* note 96, at 72; López, *supra* note 95.

103. Gerald P. López, *Lay Lawyering*, 32 UCLA L. REV. 1, 3 (1984).

104. *Id.*

105. LÓPEZ, *supra* note 13, at 37.

around the community's experiences and build shared knowledge.¹⁰⁶ It also recognizes the importance of working with other professionals to problem solve together and discover new ways for promoting social justice.

Additionally, rebellious lawyering initiates and compels action. Community members and the rebellious lawyer work together to realize their vision of social change: communities they call their own.¹⁰⁷ This demonstrates a shared responsibility to create change and enact ownership over the change process. Each is "standing shoulder to shoulder" while engaging in problem-solving and community-building.¹⁰⁸ Traditionally, law schools do not provide future lawyers with the tools to engage in this type of social justice lawyering. These tools include learning how to aid in building and sustaining coalitions, help imagine and orchestrate strategies for pursuing desired goals, understand the theoretical political frameworks that they challenge, and pursue visions of social justice.¹⁰⁹

Based upon the principles of rebellious lawyering, López developed the Center for Community Problem Solving ("Center") in 2003.¹¹⁰ The Center partners with marginalized populations (immigrant, low income of color communities) to problem solve around issues with political, economic, social, health, and legal elements. The goal is to foster participatory democracy and equal citizenship. The Center draws together the strengths of problem solvers from all walks of life: business owners, service providers, teachers, artists, policy officials, lawyers, and doctors to develop practical solutions for problems facing the communities. The Center has the following key fundamental values:

- (a) The Center seeks to collaborate with those who live and work in low-income communities, communities of color, and immigrant communities in order to share knowledge of how to address present challenges, identify resources, and develop useful strategies for change.

106. López, *supra* note 96, at 80.

107. López, *supra* note 17, at 13.

108. López, *supra* note 95, at 2042.

109. López, *supra* note 17, at 8.

110. López, *supra* note 95, at 2044.

- (b) The Center connects those with problems with service providers who can help to address these problems.
- (c) When problems remain unaddressed after making the requisite connections outlined above, the Center seeks additional resources to fill this void.
- (d) The Center monitors and evaluates progress in the problem solving phase.
- (e) The Center shares information gathered from their program evaluation processes to aid in developing more effective strategies for exercising collective problem solving.¹¹¹

López's rebellious lawyering theoretical framework challenges lawyers to engage in problem solving and foster community connections.¹¹² This will aid in remedying social problems facing the community.

II. Lawyers and the Exercise of Leadership (Pillar Two)

There is a natural synergy between social justice lawyering and leadership. The two principles are interconnected because leaders seek to motivate, inspire, and engage community members to bring the shared vision of social justice to fruition. Further, the community is empowered to assume leadership roles in the future, in order to address inequities and overcome subordination. I intend to explore the natural connection between social justice lawyering and leadership by adding a new dimension of scholarly research for demonstrating definition and adding clarity for the role of lawyer as facilitator in the process of social change.

A. Leadership in Law

Society relies on lawyers to exhibit the qualities of servant leadership and social engineers (transformational leadership).¹¹³ Over the years, society has called upon lawyers to serve a key role in

111. López, *supra* note 95, at 2049.

112. See generally LÓPEZ, *supra* note 13; see also López, *supra* note 95, at 2047.

113. See generally ROBERT K. GREENLEAF, *THE SERVANT AS LEADER* (2d ed. 1991) (providing an overview of the concept of servant leadership); MCNEIL, *supra* note 25, at 84.

creating access to justice, protecting the civil liberties of others, and fostering a sense of community. Historically, lawyers have been influential in ensuring that the promise of justice is manifested. Notable examples of lawyers serving in a leadership role in furtherance of social change include predecessors like Justice Thurgood Marshall (U.S. Supreme Court Justice) and Robert Sengstacke Abbott (Founder and Chief Editor of *The Chicago Defender*). Both men exemplified the moral courage, strength, and passion for social justice consistent with principles of servant leadership and transformational leadership. They used their legal training to create societal reform, to positively influence others, and to exercise power in resisting subordination and oppression. This characterization of a lawyer's professional identity illustrates that inherently lawyers assume leadership roles.¹¹⁴ Therefore, it was necessary to explore other disciplines (outside the field of law) that provide insight into the nexus between lawyers and leadership.¹¹⁵

B. Theories From the Field of Leadership

Initially, scholars studying leadership viewed leadership as an innate set of skills endowed to a limited few.¹¹⁶ However, subsequent research has demonstrated that effective leadership skills can be taught and developed.¹¹⁷ Presently, leadership is

114. Ben J. Heineman, *Lawyers as Leaders*, 116 YALE L.J. POCKET PART 266, 267 (2007); HERB RUBENSTEIN, *LEADERSHIP FOR LAWYERS*, 4-5 (2d ed. 2008) (discussing lawyers as leaders and arguing that leadership demands important qualities of mind that go beyond the competencies taught in law schools).

115. A limited number of studies and publications explore leadership development for lawyers. For example, see the following a) empirical study: JUDY BROWN & BONNIE ALLEN, *LEADERSHIP IN THE LEGAL ACADEMY: PRINCIPLES, PRACTICES AND POSSIBILITIES* (2009), available at <http://www.law.umaryland.edu/programs/initiatives/lead/docs/LeadershipLawSchoolRpt.pdf>; b) articles on the role of lawyer as leader, more generally: Larry Richard, *Herding Cats: The Lawyer Personality Revealed*, REPORT TO LEGAL MANAGEMENT, Aug. 2002, at 1, available at <http://www.managingpartnerforum.org/tasks/sites/mpf/assets/image/MPF%20-%20WEBSITE%20-%20ARTICLE%20-%20Herding%20Cats%20-%20Richards1.pdf>; c) Roland Smith, *The Struggles of Lawyer-Leaders: What They Need to Know*, 81 NYSBA J. 38, 38-40 (2009), available at <http://www.ccl.org/leadership/pdf/landing/NYSBAJournalMarApr09.pdf>.

116. NORTHOUSE, *supra* note 53, at 2 (2012) (trait approach to leadership focused on the "Great Man" theory, which held that innate qualities and characteristics were embodied by acclaimed political, military, and social leaders).

117. See generally RICHARD HUGHES, ROBERT GINNETT & GORDON CURPHY, *LEADERSHIP: ENHANCING THE LESSONS OF EXPERIENCE* (4th ed. 2002) (supporting the

characterized as an influence process that occurs when a leader seeks to influence the goals of others and empower them to take action in order to reach their desired goals.¹¹⁸ "Leadership is the ability and courage to create a vision that inspires others, the ability to communicate that vision and to engage all the talent in the organization to focus on the same goal."¹¹⁹ Therefore, leadership is a process or activity that draws upon the strengths of the leader and followers. The leader teaches by example how to exercise influence. Sullivan characterizes this as a process of mutual influence during which leaders and followers combine their values, beliefs, and actions together to achieve a shared purpose.¹²⁰ Further, one's ability to excel is based upon the nature of the relationship and transaction process that occurs between leaders and followers.¹²¹ This is a process of dualism that impacts the learning, growth, and development of both leaders and followers. Hence, a key characteristic of leadership is relationship-building which contributes to an interactive process of collaboration.¹²²

During this transaction process, a leader intentionally exercises his/her power to influence. Influence is one's ability to change a situation based on one's resources, talent, position and power.¹²³ Dr. Martin Luther King, Jr. described a leader's influencing capability when he stated, "I refuse to accept the idea that man cannot influence the unfolding events that surround him."¹²⁴ In addition to an exercise of influence, leadership happens within a group context and gives attention to common goals.¹²⁵ Leaders and followers have a mutual purpose and shared goal to reach. Leaders influence their

notion that good leaders are made, not born).

118. KENNETH BLANCHARD & PHIL HODGES, *SERVANT LEADER: TRANSFORMING YOUR HEART, HEAD, HANDS & HABITS* 10 (2003).

119. RONALD BENNETT & ELAINE MILLAM, *LEADERSHIP FOR ENGINEERS: THE MAGIC OF MINDSET* xii (2012).

120. DEBRA REN-ETTA SULLIVAN, *LEARNING TO LEAD: EFFECTIVE LEADERSHIP SKILLS FOR TEACHERS OF YOUNG CHILDREN* 91 (2003).

121. NORTHOUSE, *supra* note 51, at 132.

122. PETER G. NORTHOUSE, *INTRODUCTION TO LEADERSHIP: CONCEPTS AND PRACTICE* 134 (2008).

123. *AMERICAN HERITAGE DICTIONARY* 660 (1985).

124. Martin Luther King Jr., *Acceptance Speech*, addressing audience at the 1964 Nobel Prize Award Ceremony (Dec. 10, 1964), *available at* http://www.nobelprize.org/nobel_prizes/peace/laureates/1964/king-acceptance_en.html.

125. NORTHOUSE, *supra* note 51, at 96.

group of followers; accordingly, group involvement is paramount to leadership. This type of collective engagement is imperative to carry forward the vocation of justice.¹²⁶ Leaders and followers should work together strategically to develop a plan of action and devise implementation processes. Thus, leadership combines a leader's ability to influence others, encourage group participation, and develop shared goals.

There are a range of leadership theoretical frameworks and classifications that can aid in exploring the nature of leadership and an individual's ability to influence and further a group's shared vision within a leadership capacity. Sixty-five classifications systems have developed to define the multifaceted nature of leadership¹²⁷ and over 100 definitions of leadership.¹²⁸ The *Encyclopedia of Leadership* provides thirty-eight leadership theories and identifies seventeen leadership styles.¹²⁹ Northouse has compiled these leadership themes into five categories: leadership as a trait, leadership as an ability, leadership as a skill, leadership as a behavior, and leadership as a relationship.¹³⁰ Leadership combines components of each of these frameworks, classifications, and categories.

The themes of leadership as a behavior and exercised within relationships are evidenced in the theoretical perspectives of servant leadership and transformational leadership. More specifically, the theories of servant leadership and transformational leadership are representative of the organic leadership category where "the leader is part of a collective that through dialogue crafts a vision to challenge dominant ideologies, structures, and practices."¹³¹ These theoretical frameworks share a commitment to furthering a moral

126. WINDLEY-DAOUST & KILMARTIN, *supra* note 29, at 321.

127. NORTHOUSE, *supra* note 51, at 2 (citing Edwin A. Fleishman, Michael D. Mumford, Stephen J. Zaccaro, Kerry Y. Levin, Arthur Korotkin, & Michael Hein, *Taxonomic Efforts in the Description of Leader Behavior: A Synthesis and Functional Interpretation*, 2 LEADERSHIP QUARTERLY 245, 245-46 (1991)).

128. NORTHOUSE, *supra* note 122, at 1 (citing JOSEPH ROST, *LEADERSHIP FOR THE TWENTY-FIRST CENTURY* (1991)).

129. See generally GEORGE GOETHALS, GEORGIA SORENSON, & JAMES MACGREGOR BURNS, *ENCYCLOPEDIA OF LEADERSHIP* (2004) (providing an overview of leadership through the categorical identifications of leadership styles and leadership theories).

130. NORTHOUSE, *supra* note 122, at 2.

131. STEPHEN BROOKFIELD & STEPHEN PRESKILL, *LEARNING AS A WAY OF LEADING: LESSONS FROM THE STRUGGLE FOR SOCIAL JUSTICE* ix (2009).

imperative by seeking to promote common good and shared values.

1. *Servant Leadership*

The premise of servant leadership emerged in response to the leadership crisis of lack of moral leadership; it focuses on promoting the common good, embracing the moral dimensions of leadership, serving the needs of followers, and valuing the involvement of everyone in community-building.¹³² Servant leadership, coined by Robert Greenleaf, is a facilitative approach that supports growth and development during which the traditional roles of leader and followers are transcended.¹³³ Servant leadership is manifested through the leader's exercise of influence. Greenleaf warns of the importance of recognizing the impact of influence on one's self and others since net effect (of an exercise of influence) can be beneficial, enriching, or depleting.¹³⁴ This self-awareness reminds servant leaders that they have influence, thus they must be wise stewards of this influence. In the face of injustice, the servant leader has a social responsibility to be concerned about the needs of the marginalized and exercise their sense of agency to eradicate social injustices.¹³⁵ Servant leadership is community-focused as it seeks to shift leadership authority and power to each member of the community as they emerge from follower to leader. This process aids in the development of the leadership potential of every individual involved.

Servant leadership provides a theoretical framework of service that inspires each individual to serve and lead. It begins with the "natural feeling" that one wants to serve, and to serve *first*. Then, conscious choice brings individuals to aspire to lead.¹³⁶ It requires a leader to beckon to the call of servanthood.¹³⁷ The leader's primary purpose is to serve others and promote the common good.¹³⁸

132. ANN MCGEE-COOPER & GARY LOOPER, *THE ESSENTIALS OF SERVANT LEADERSHIP: PRINCIPLES IN PRACTICE* 4 (2001); NORTHOUSE, *supra* note 51, at 222, 384-386.

133. BROOKFIELD & PRESKILL, *supra* note 131, at 9.

134. *See generally* MCGEE-COOPER & LOOPER, *supra* note 132.

135. *See generally* Jill W. Graham, *Servant-Leadership in Organizations: Inspirational and Moral*, 2 LEADERSHIP Q. 105 (1991); NORTHOUSE, *supra* note 51, at 385.

136. GREENLEAF, *supra* note 113, at 7.

137. JAMES A. AUTRY, *THE SERVANT LEADER: HOW TO BUILD A CREATIVE TEAM, DEVELOP GREAT MORALE, AND IMPROVE BOTTOM-LINE PERFORMANCE* xix (2004).

138. BILL GEORGE, *AUTHENTIC LEADERSHIP: REDISCOVERING THE SECRETS TO*

According to Adair, "Democracy needs experts, representatives, and leaders, but it needs them as servants and not as masters."¹³⁹ The servant leader utilizes his/her professional training as a tool to serve the needs of others.

The foundation of servant leadership is a shared vision that inspires followers and empowers others through a moral commitment to serve and aid fellow community members in reaching their full potential.¹⁴⁰ According to Northouse, vision has five identifiers, which are "picture" (image of a better future), "change" (in the way of doing things), "embodiment" (in values), "map" (provides direction/purpose), and "challenge" (to create change).¹⁴¹ The servant leader is called upon to cultivate each of these key characteristics by supporting the community's vision of the future.

A servant leader's true motivation is to inspire others to lead and cultivate their leadership strengths.¹⁴² The servant leader recognizes that they are not a sole actor but must foster collective engagement to realize the common vision.¹⁴³ During this process servant leader fosters connectedness and interdependence while building stronger communities. In essence, the progress of a servant leader is evaluated by raising the question "Do you grow the people you lead?"¹⁴⁴

Servant leaders also recognize that service is paramount to community-building and deem service as a moral imperative. Through serving, everyone can contribute to the growth and development of a strong community. Dr. King described the significance of service in his speech entitled "The Drum Major Instinct."¹⁴⁵ The drum major instinct refers to one's innate desire to seek recognition and promote self-indulgence. On the contrary, he

CREATING LASTING VALUE 19 (2003).

139. JOHN ADAIR, *HOW TO GROW LEADERS: THE SEVEN KEY PRINCIPLES OF EFFECTIVE DEVELOPMENT* 124 (2005)

140. AUTRY, *supra* note 137.

141. NORTHOUSE, *supra* note 122, at 88.

142. MCGEE-COOPER & LOOPER, *supra* note 132, at 6, 15.

143. NORTHOUSE, *supra* note 122, at 114.

144. MCGEE-COOPER & LOOPER, *supra* note 132, at 3.

145. Dr. Martin Luther King, Jr., *The Drum Major Instinct Sermon at Ebenezer Baptist Church* (Feb. 4, 1968), available at: <http://www.thekingcenter.org/archive/document/drum-major-instinct-ebenezer-baptist-church#>.

draws upon themes of servant leadership by challenging his audience to become drum majors for justice by seeking to promote the common good, justice, and servanthood. In this speech he deconstructed the notion of individualism and self-centeredness within communities, while offering an alternative paradigm of service and interrelatedness. This new paradigm empowers each individual to become a servant leader. He stated, "If you want to be important—wonderful. If you want to be recognized—wonderful. If you want to be great—wonderful. But recognize that he who is greatest among you shall be your servant. That's the new definition of greatness."¹⁴⁶ He concludes the speech with a vision for his own eulogy in which he requested to be remembered as one who "tried to give his life serving others."¹⁴⁷

Greenleaf's scholarly research portrays King's definition of greatness through the characterization of Leo.¹⁴⁸ Greenleaf draws Leo from Herman Hesse's *Journey to the East*.¹⁴⁹ Leo accompanies a group of men on a mythical journey as the servant who performs routine menial tasks. Leo remains on the journey as a servant while uplifting the men and guiding the journey. One day, Leo disappears and one of the men finds him many years later. The men discovered that Leo is a great leader and a noble guiding spirit, in addition to being an indispensable resource to the group of men. Leo's inner strengths as a motivator and giver empowered him to serve in a merged role as both a servant and a leader. Greenleaf characterizes Leo's servant leadership qualities as "the real person, not bestowed, not assumed, and not to be taken away."¹⁵⁰ This serves as an example of a servant leader's ability to uplift and motivate others through random acts of kindness.

Servanthood is also a moral imperative that compels one to serve others as an exercise of ethical leadership. Edelman characterizes service as "the rent we pay to be living. It is the very purpose of life and not something that you do in your spare time."¹⁵¹ Edelman recognizes that service is a part of the essence of living and

146. *Id.*

147. *Id.*

148. GREENLEAF, *supra* note 113, at 33.

149. HERMAN HESSE, *THE JOURNEY TO THE EAST* (1956).

150. GREENLEAF, *supra* note 113, at 9.

151. MARIAN WRIGHT EDELMAN, *THE MEASURE OF OUR SUCCESS* 6 (1992).

being a part of the human family. Each has the power and capacity to serve in a leadership capacity and make a difference. The endowment of this capacity creates a responsibility for each individual to act in creating a shared vision of social change.

A servant leader embodies the following key qualities: effective listening, perceptiveness, creativity, and empathy.¹⁵² As a reflective listener, a servant leader is always searching, listening, and expecting that there are ways to foster change. For instance, the leader listens to understand how to serve the community better or how to motivate the next generations of leaders. Servant leaders listen to gain a deeper understanding of the experiences of others. They exemplify the eagerness to maintain a relational perspective which is highlighted in the Saint Francis prayer, "Lord grant that I may not seek so much to be understood as to understand."¹⁵³

A servant leader is perceptive and remains in tune with the rhythm of the community that they are serving. The servant leader must have a requisite wide span of awareness to see the full picture of his/her surroundings. Further, servant leaders are attentive to the needs of the community since they are followed because they are trusted. The servant leader is "closer to the ground—he hears things, sees things, and his intuitive insight is exceptional."¹⁵⁴ Additionally, the servant leader works collaboratively with others in the community to promote the furtherance of social justice initiatives. Greenleaf contrasts this collaborative process metaphorically to a dove, which offers a gentle stirring of life and hope that inspires others to serve in the community and work together to transform society.¹⁵⁵

In addition, the servant leader exhibits the quality of creativity, which aids in creative problem solving techniques and bridges the gap of intuition. Further, the servant leader is empathetic and demonstrates a strong sense of compassion for others. The servant leader focuses primarily on the needs and goals of others.¹⁵⁶ Researchers have also identified additional characteristics of servant

152. John E. Barbuto & Daniel Wheeler, *Scale Development and Construct Clarification of Servant Leadership*, 31 GROUP ORGANIZATIONAL MGMT. 300, 302 (2006); NORTHOUSE, *supra* note 51, at 385.

153. GREENLEAF, *supra* note 113, at 10.

154. *Id.* at 32.

155. GREENLEAF, *supra* note 113.

156. SULLIVAN, *supra* note 120, at 13.

leaders that include: calling, healing, persuasion, conceptualization, foresight, stewardship, growth, and community-building.¹⁵⁷ The culmination of these characteristics provides the servant leader with the skills to think critically and act ethically. As Greenleaf suggests, a leader is at any moment "a historian, contemporary analyst, and prophet" who combines knowledge of how the past and present influence the unfolding events of the future.¹⁵⁸ These skills enable the servant leader to demonstrate foresight and adaptability when challenges arise.

There are key steps required for fostering a commitment to servant leadership within a community, which requires one to: listen without judgment/practice reflective listening, exhibit authenticity, build community, and share power.¹⁵⁹ Further, Autry posits that a servant leader is authentic, vulnerable, accepting, present, and useful.¹⁶⁰ Each of these steps aligns with demonstrating qualities consistent with the ethic of caring, which builds community connections and supports collaboration.¹⁶¹

If lawyers engage in these steps, they will cultivate their own leadership skills and empower others in the community to fight for justice "that those alone may be servants of the law who labor with learning, courage, and devotion to preserve liberty and promote justice."¹⁶² This differs from the traditional model of lawyering, which focuses on exerting power through the utilization of one's legal training. A lawyer who practices principles of servant leadership begins by serving first and then leading by exercising reflective listening, fostering a sense of connectedness, empowering others, and establishing rapport.

2. *Transformational Leadership*

In addition to servant leadership, transformational leadership also provides a theoretical perspective that focuses on motivating and influencing followers to realize a common social justice vision.

157. Barbuto & Wheeler, *supra* note 151, at 300.

158. GREENLEAF, *supra* note 113, at 17.

159. MCGEE-COOPER & LOOPER, *supra* note 132, at 14-15.

160. AUTRY, *supra* note 134, at 10.

161. NORTHOUSE, *supra* note 51, at 386.

162. UNIV. OF VA. SCHOOL OF LAW, *Law School Life: The Layout*, LAW.VIRGINIA.EDU, https://www.law.virginia.edu/html/insider/life_layout.htm (Last visited Oct. 20, 2012).

Three decades ago, Downton first explored the concept of transformational leadership and coined the term “transforming leadership”.¹⁶³ It materialized as a theoretical framework through the research of James MacGregor Burns.¹⁶⁴ Burns introduced the transformational leadership model as an ongoing process of reciprocity that linked leadership to followership.¹⁶⁵ Burns distinguishes between “transactional leadership” and “transformational leadership.”¹⁶⁶ Transactional leadership focuses primarily on the interactions between leaders and followers. The leader “transacts” with the followers to complete a specified goal and to reward successful completion, therefore satisfying the self-interest of both parties.¹⁶⁷ Contrarily, transformational leadership focuses on the process of engagement that occurs between leaders and followers, which aids in raising standards of morality and upholding collective values.

During the process of transformational leadership, “leaders and followers raise one another to higher levels of morality and motivation.”¹⁶⁸ The motivation derived provides a reciprocal process for mutual learning and empowerment.¹⁶⁹ Burns hypothesized that this process would raise the awareness of followers and challenge them to reach a higher level of motivation and morality.¹⁷⁰ He envisioned that leaders could mobilize groups, parties, public policy, and legislative processes. Burns saw leaders at the center of the catalyst for social change that could transform the very nature of social conditions.

Transformational leaders exhibit the qualities of charisma and persuasion that compel others to lead and seek social change. Charisma is defined as a special, innate gift attributed to certain persons that have the ability to do extraordinary things and win the

163. See generally JAMES V. DOWNTON, *REBEL LEADERSHIP: COMMITMENT AND CHARISMA IN THE REVOLUTIONARY PROCESS* (1973) (exploring the leadership characteristics of charisma and commitment in the context of creating change); NORTHOUSE *supra* note 51, at 172.

164. NORTHOUSE *supra* note 51, at 172.

165. JAMES MACGREGOR BURNS, *LEADERSHIP*, 4 (1978).

166. *Id.*

167. GOETHALS, SORENSON, & BURNS, *supra* note 131, at 200.

168. BURNS, *supra* note 164, at 20.

169. CROSBY & BRYSON, *supra* note 51, at 70–73.

170. GOETHALS, SORENSON, & BURNS, *supra* note 128, at 396; BURNS, *supra* note 164, at 4–5.

devotion of others.¹⁷¹ Other characteristics of transformational leadership include the four I's: (1) idealized influence; (2) inspirational motivation; (3) intellectual stimulation, and (4) individualized consideration.¹⁷²

Through the exercise of the leader's "idealized influence" or charisma (factor 1) followers are motivated by the inspiration of transformational leaders due to their vision and passion.¹⁷³ This is a moral vision that challenges injustices and seeks to promote equity and justice.¹⁷⁴ Transformational leader, Myles Horton, characterized this moral vision when he stated, "you have to do the best you can in an unjust society. Sometimes that means that the laws you go by are moral laws instead of book laws."¹⁷⁵ Transformational leaders challenge followers to reach a higher moral standard of a collective vision of change. Also, their charisma tends to be transmissible since it inspires others to serve as change agents. Charisma emerges as "a result of a social crisis and charismatic leaders are those with extraordinary appeal who emerge with radically new visions that provide a solution to a crisis, attracting followers, who strongly identify with them."¹⁷⁶ Transformational leaders also embody strong values and ideals. They promote the intellectual stimulation of followers and encourage creativity. Overall, this promotes opportunities to develop new approaches and engage in creative problem solving.

Transformational leaders communicate "inspirational motivation" (factor 2) as they promote shared values and advance a shared vision.¹⁷⁷ The transformational leader focuses on creating and communicating this shared vision in a range of forums.¹⁷⁸ Transformational leaders also promote "intellectual stimulation"

171. AMERICAN HERITAGE DICTIONARY, *supra* note 122, at 260; HUGHES, GINNETT, & CURPHY, *supra* note 116, at 410-411; NORTHOUSE, *supra* note 51, at 22.

172. NORTHOUSE, *supra* note 51, at 177.

173. *Id.*

174. *Id.* at 178.

175. MILES HORTON & PAOLO FREIRE, WE MAKE THE ROAD BY WALKING: CONVERSATIONS ON EDUCATION AND SOCIAL CHANGE 7 (Brenda Bell & John Gaventa eds., 1990).

176. PETER G. NORTHOUSE, INTRODUCTION TO LEADERSHIP CONCEPTS AND PRACTICE 137 (2d ed. 2001).

177. NORTHOUSE, *supra* note 51, at 179.

178. CROSBY & BRYSON, *supra* note 51, at 47, 107.

(factor 3).¹⁷⁹ They encourage followers to be creative and innovative. This is a process of thinking outside the box and engaging in creative problem solving processes. Transformational leadership also provides “individualized consideration” (factor 4) by listening to the needs of followers and aiding in the process of self-actualization.¹⁸⁰ The key aspect of self-actualization is recognition of each follower’s unique leadership capacity. According to Bernard M. Bass, the transformational leader must gain an understanding of the desires, strengths, and aspirations of followers.¹⁸¹ This allows the transformational leader to find ways to motivate the followers to reach their full leadership potential.¹⁸²

Additionally, transformational leaders are visionaries and exercise foresight, which motivates others to follow their vision.¹⁸³ They support a vision of moving others to a higher standard of moral responsibility which could in turn challenge one to uphold principles of justice and liberty.¹⁸⁴ This vision implies change and challenges followers to move social change initiatives forward.¹⁸⁵ Transformational leaders are able to link this vision with the values and beliefs of followers to create a shared vision of how the world should be and identify the role of each individual in bringing this vision to fruition.

Transformational leaders encourage followers to think strategically, act wisely, reach self-actualization, and strengthen their individual leadership capacity.¹⁸⁶ Moreover, transformational leaders challenge followers to question authority, analyze cultural influences, and become politically engaged. Followers in turn, discover their identity as transformational leaders.¹⁸⁷ Some examples of the development of the leadership capacity of future

179. NORTHOUSE, *supra* note 51, at 179.

180. *Id.*

181. See generally BERNARD M. BASS, *LEADERSHIP AND PERFORMANCE BEYOND EXPECTATIONS* (1985).

182. JAMES M. KOUZES & BARRY Z. POSNER, *THE FIVE PRACTICES OF EXEMPLARY LEADERSHIP* 5 (2d Ed. 2011).

183. SULLIVAN, *supra* note 120, at 92.

184. NORTHOUSE, *supra* note 51, at 384.

185. NORTHOUSE, *supra* note 122, at 166.

186. *Id.* at 179.

187. Joyce Duncan, *Historical Study of the Highlander Method: Honing Leadership for Social Justice 17–20* (2005) (Dissertation, East Tennessee State University), available at: <http://dc.etsu.edu/cgi/viewcontent.cgi?article=2153&context=etd>.

transformation leaders are the works of prominent civil rights leaders like Dr. Martin Luther King, Jr., Fannie Lou Hamer, Rosa Parks, and Septima Clark, who inspired masses of followers to take a leadership role in the struggle for justice. These leaders took action in their communities and trained others to lead by guiding the "praxis" (informed actions) by the "phronesis" (the disposition to act truly and rightly).¹⁸⁸

Kouzes and Posner offer further considerations of leadership qualities from a transformational leadership perspective.¹⁸⁹ After interviewing more than 1,300 managers (at the mid and senior level) in private and public sectors, Kouzes and Posner identified the five leadership qualities that enable leaders to achieve extraordinary success.¹⁹⁰ These practices model the way, inspire a shared vision, challenge the process, enable others to act, and encourage the heart. Further, a transformational leader is an authentic leader who leads change, upholds values, builds relationships, practices discipline, and leads with his/her heart.¹⁹¹ Finally, the transformational leader exhibits enthusiasm due to the overall satisfaction in discovering the essence of one's calling.

III. Facilitating Social Change through Public Policy Advocacy (Pillar Three)

Social change movements influence the process of systemic change since change begins with dismantling systems that create marginalization and subordination.¹⁹² Active engagement in policy reform and advocacy is an indispensable tool utilized by lawyers in this process. This focuses on engaging in agenda setting and establishing community partnerships. This new type of lawyering also requires advocacy to work in partnership with community. The lawyer within this role engages in citizen professionalism, that is, working collaboratively with others to engage in creative problem

188. Duncan, *supra* note 187, at 26.

189. KOUZES & POSNER, *supra* note 182.

190. *Id.* at 7.

191. GEORGE, *supra* note 135, at 12.

192. See generally SAUL D. ALINSKY, RULES FOR RADICALS: A PRAGMATIC PRIMER FOR REALISTIC RADICALS 7 (1971) (providing a blueprint for revolutionary action and social change). Alinsky explains: "the price of democracy is the ongoing pursuit of the common good by all of the people." *Id.* at xxv.

solving and discover common ground.¹⁹³ This section explores the tools that the new social justice lawyer employs in the process of building *and* sustaining social change which includes: (1) policy entrepreneurship, (2) coalition building, and (3) community organizing.

A. Kingdon's Policy Entrepreneurship

Lawyers can serve as political actors by influencing the policy making process to challenge the policies that lead to oppression and marginalization. To engage in the policy reform efforts, the lawyer (serving within a leadership capacity) must obtain a working knowledge of how to navigate the terrain of policy change and then take strategic action.¹⁹⁴ John Kingdon provides a framework for influencing public policy and engaging in agenda setting.¹⁹⁵ Policy is the result of: (a) setting the agenda, (b) specifying alternatives, and (c) making an authoritative choice among alternatives.¹⁹⁶ Policy makers address issues (social, political, and economic) when they set the agenda. Emerging issues impacting policy makers influence the agenda setting process.

1. *Engaging in Agenda Setting*

The policy entrepreneur understands how to operate the levers that lead to policy reform and create social change. This process begins by engaging in agenda setting. According to Kingdon, issues influence agenda setting in three ways. First, issues press on the system due to a crisis, prominent event, or alternative, a change in a widely respected value.¹⁹⁷ Second, increase in knowledge regarding an issue may impact agenda setting. Within the context of cultivating the transformative power of lawyers, new knowledge emerges. Third, for transformative lawyers to address policy issues

193. BOYTE & SHELBY, *supra* note 17, at 27.

194. *See generally* CATHERINE MARSHALL & MARICELA OLIVA, LEADERSHIP FOR SOCIAL JUSTICE: MAKING REVOLUTIONS IN EDUCATION 2 (2005) (evidence of marginalization and oppression demonstrates the need for strategic action to take place to achieve equity and uphold democratic values).

195. *See generally* JOHN W. KINGDON, AGENDAS, ALTERNATIVES, AND PUBLIC POLICIES (2d ed., 2002) (summarizing various courses of action to effect change).

196. *Id.* at 2-3.

197. *Id.* at 2-4.

"streams" must align.¹⁹⁸ Streams are pressing social problem that create a "window of opportunity" to bring forth new ideas, support consensus-building, and create solutions.

2. *Opening of the Window of Opportunity*

Kingdon posits that change occurs as a result of strategic action.¹⁹⁹ The way change happens is that there is an actor whom Kingdon refers to as the "policy entrepreneur."²⁰⁰ They continually engage in a preparation process by mobilizing and educating community members to address a given social justice issue.²⁰¹ Throughout this process, the policy entrepreneur stands ready to take action. They prepare for a window of opportunity to open in order to engage in reform efforts.²⁰² When this window of opportunity is open, policy entrepreneurs are able to offer solutions for challenges presented. This moment of opportunity occurs when policy entrepreneurs can bring their research and passion for a particular issue to the forefront.²⁰³ These solutions can be proposed when the next window of opportunity opens. This gives policy makers a chance to act in social reform and policy entrepreneurs the opportunity to offer possible solutions.²⁰⁴

The policy entrepreneur recognizes the limitations of the law in effectuating social change and therefore channels their efforts in the arena of policy development and reform.²⁰⁵ The policy entrepreneur recognizes that they can use the adoption of equitable policies to promote social justice. When serving in the capacity of policy entrepreneur, the lawyer develops an understanding of how agenda setting occurs.²⁰⁶ The lawyer is skilled enough to know how to operate the levers of agenda setting by reframing emerging social justice issues.²⁰⁷ The lawyer as policy entrepreneur also is prepared for the opening of the window of opportunity by offering practical

198. *Id.* at 19.

199. KINGDON, *supra* note 195, at 165.

200. *Id.* at 20.

201. *Id.* at 85.

202. *Id.* at 166.

203. *Id.* at 85, 175 (the policy entrepreneur seeks to join the four streams, which are problems, solutions, participants, choices, and opportunities).

204. *Id.* at 20.

205. *Id.* at 204–205.

206. *Id.* at 196.

207. *Id.* at 204.

solutions for public policy reform.²⁰⁸ Hence, policy entrepreneurship serves as a key tool for advancing social justice by influencing agenda setting and transforming systems.

B. Stewart's Coalition-Building Framework

Joseph Stewart focused on policy streams and the significant role of community-centric advocacy coalitions.²⁰⁹ The framework's central themes are (a) changes in policy are the product of individuals acting rationally and strategically within an organization and (b) changes occur as a result of competing coalitions that share belief systems acting together.²¹⁰ Stewart explores his analysis through an historical case study of the desegregation laws, which sought to create equal educational opportunities.²¹¹ Throughout this case study, Stewart evaluates the effectiveness of these methods used by advocacy groups and offers a variety of policy solutions.²¹²

Stewart utilizes the case of *Brown v. Board of Education* to teach public policy lessons and demonstrate the significant role of coalition-building in addressing the root causes of a social problem.²¹³ The first lesson learned from the pursuit of equal educational opportunities was not to limit the definition of the policy problem because this also limited the ability to create effective solutions.²¹⁴ When the education problem was defined as racial segregation in schools, ending segregation quickly became the solution. This rationale was problematic since it was a short-term fix to a larger systemic problem.²¹⁵ In this context, the larger systemic challenges included institutionalized racism and racial discrimination.²¹⁶ This narrow definition could only lead to temporary remedies. As Stewart writes, "[s]ubsequent experience shows dramatically that segregated schools were just the symptom, not the disease."²¹⁷

208. *Id.* at 204–205.

209. Joseph Stewart, *Policy Models and Equal Educational Opportunity*, 24 POLITICAL SCIENCE & POLITICS 167 (1991).

210. *Id.* at 170, 171.

211. *Id.* at 167.

212. *Id.* at 167–70.

213. *Id.* at 167–69.

214. *Id.* at 169.

215. *Id.* at 167–69.

216. *Id.* at 170–171.

217. *Id.* at 169.

Stewart outlines policy lessons taken from policy advocacy coalitions like the NAACP National Defense and Educational Fund Inc. ("Inc. Fund").²¹⁸ The Inc. Fund collectively drew together resources that maximized the likelihood of producing favorable policy changes in civil rights. The Inc. Fund used litigation to test strategies and influence public opinion, thus it was as a tool for social change. The Inc. Fund focused on using courts as an alternative to legislative advocacy during its civil rights mobilization efforts. Similarly, the pursuit of a social justice-related cause of action impacting marginalized populations (i.e., police misconduct/brutality, inequitable educational opportunities, and racial disparities in the criminal/juvenile justice systems) offered the opportunity to change public policy and empower marginalized communities.

Lawyers' skills and active engagement of the community were keys to the success of the Inc. Fund. The lawyers used the courts to shape public opinion related to civil rights in furtherance of social engineering to implement a comprehensive strategy for obtaining favorable court rulings and decisions.²¹⁹ These cases laid the groundwork for obtaining civil rights protections and promoting racial equity.²²⁰ Lawyers like Charles Hamilton Houston, Oliver Hill, and Justice Thurgood Marshall developed their expertise in civil rights law and appellate advocacy.²²¹ As a result, these lawyers emerged as transformational leaders and they used their legal expertise as a tool to manifest their personal passions and professional ambitions with the hopes of advancing their vision of social justice.²²² Once again, the public opinion can be shaped to focus on removing the barriers to access to justice, which are constructed based upon class, race, and gender.

1. New Stories and New Public Narratives

One way to create a shift in the court of public opinion is to bring the voices of marginalized populations to the forefront through storytelling and framing a new public narrative.

218. Stewart, *supra* note 209, at 169.

219. *Id.*

220. *Id.*

221. *Id.* at 169.

222. *Id.* at 171.

Community organizing can implement Stewart's philosophy related to shaping public opinion at the macro-level by sharing new stories and establishing new public narratives. During the process of shaping public opinion, a "new story" emerges. This story is the foundation of a "public narrative" that uplifts values, compels action, and initiates purposeful action.²²³ Through this public narrative, "social movement leaders and participants can move to action by mobilizing sources of motivation, constructing new shared individual and collective identities, and finding the courage to act."²²⁴

During the Civil Rights Movement, public policy advocacy groups established the force needed for political and societal changes through community engagement and mobilization. Community mobilization became a powerful tool for influencing public policy since Congresspersons seek to avoid electoral sanctions.²²⁵ Inc. Fund's advocacy efforts impacted the judicial branch, too.²²⁶ During this time, United States Supreme Court precedent led to the construction of a new definition of equality and equitable policies.²²⁷ Additionally, community engagement is essential for a paradigm shift within the justice systems. Policy advocacy groups should educate community members on current social justice issues and prepare them to engage in legislative advocacy. Hence, following the example of the Inc. Fund, policy advocacy groups (consisting of lawyers working in partnership with impacted communities) have the power to construct a new vision of justice through collective efforts and community engagement.

A new vision of justice, derived from community-led action laid the foundation for social justice movements similar to the Civil Rights Movement. Social movements are a vehicle for furthering social change initiatives.²²⁸ Social justice movements are a part of U.S. history, ranging from the establishment of voting rights for women to the abolition of slavery, and have left a lasting impact on law and policies. Within these movements, community members

223. Ganz, *supra* note 48, at 527.

224. Ganz, *supra* note 48, at 527.

225. Stewart, *supra* note 209, at 167.

226. *Id.*

227. *Id.*

228. MARSHALL & OLIVA, *supra* note 194, 11.

have varying levels of commitment and engagement that are deeply rooted in moral values.²²⁹ Community members who are actively engaged in the social movement hold dearly the hope of asserting new shared values, creating new relationships rooted in those values, and mobilizing political action.²³⁰ These movements are collective, strategic, dynamic, participatory, and organized.²³¹

The power of the people is essential for engaging in these reform efforts. People derive this power from alliances built with organizations, community members, and other interested individuals, collectively creating a united front on the fight for justice. Together they can address the interrelatedness of social justice issues like earning a livable wage, obtaining quality education, and protecting the self-worth of each individual. "These issues create a formidable knot of many tightly wound strands. Only when the knot itself is undone will the threads come free."²³² A strong coalition of advocacy groups and community members can undo this "knot" and prevent future knotting by exercising their political power and influencing public policy reform.

C. Alinsky's Community Organizing Approach

Community organizing serves as an essential tool for this process by helping ordinary people have their voices heard.²³³ Saul Alinsky's *Rules for Radicals* provides guidance on how to "fertilize social change" by organizing the masses and building mass power.²³⁴ This text is a guidebook that provides instruction based upon Alinsky's personal philosophy, which is driven by optimism. He writes, "It must be, for optimism brings with it hope, a future with a purpose, and therefore, a will to fight for a better world."²³⁵ The optimism of creating a better world by promoting the common good in partnership with people guides the community organizer.

The community organizer is committed to protecting the

229. *Id.*

230. Ganz, *supra* note 48, at 155-57.

231. *Id.*

232. JEAN ANYON, RADICAL POSSIBILITIES 175 (2005).

233. NICHOLAS VON HOFFMAN, A PORTRAIT OF SAUL ALINSKY: RADICAL 6, 12, 20, 22, 199 (2010).

234. SAUL D. ALINSKY, RULES FOR RADICALS: A PRAGMATIC PRIMER FOR REALISTIC RADICALS 7 (1971).

235. *Id.* at 21.

dignity of the individual. This protection respects the community's autonomy and guards their fundamental democratic right to fully participate in creating solutions to their own problems.²³⁶ Additionally, the community organizer believes that communication is essential to move forward with progress.²³⁷ Listening attentively to the community's needs aids the organizer in understanding what the community tries to communicate. Further, the community organizer is also an imaginative creator. Unlike leaders who traditionally desire to hold power, the community organizer seeks to create new ways to maximize power to bring forth social change. The community organizer's exercise of moral imagination in skillfully creating tactics informs their work. They focus on creating a mass ego (collective vision) to motivate and inspire others to take action. As Alinsky articulates, "[t]he organizer finds his goal in creation of power for others to use."²³⁸ An organizer seeks to not merely serve as an organizer but reorganizer of social systems.²³⁹ Alinsky characterizes this work as a radical, revolutionary movement; hence the job of the organizer is "to fan the embers of hopelessness into a flame to fight."²⁴⁰

The community organizer begins by organizing the unorganized. Organization starts with mobilizing the community, "an organized, communal life; [where] people live in an organized fashion[.]"²⁴¹ Community organizing moves beyond the notion of neighborhood or community shared by common physical space to the idea of a community of interests. People group according to their self-interest and then connect with others to establish a community of interests. These interests inform the strategy of the community organizer and the development of a plan of action. The experiences of the community inform the strategy by providing the context and starting point of analysis by acknowledging "this is the world as it is. This is where you start."²⁴² This is the vision that inspires the work of the organizer and motivates community members to get involved in building social change.

236. *Id.* at 4.

237. *Id.* at 194.

238. ALINSKY, *supra* note 234, at 80.

239. HOFFMAN, *supra* note 233, at 157.

240. ALINSKY, *supra* note 234, at 194.

241. *Id.* at 116.

242. *Id.* at 14.

The vision is then coupled with the power to create change and the metaphor of an army begins to emerge. Alinsky recognized the transformative nature of power. "Power is an essential life force always in operation, either changing the world or opposing change. Power, or organized energy, may be man-killing explosive or life-saving drug."²⁴³ When utilized as the latter, the community can reach its desired goals and create lasting social change. The momentum built through organizing continues to grow over time. "Once a people are organized they will keep moving from issue to issue. People power is the real objective . . ."²⁴⁴ Organized people gain power by developing a unified voice of the collective whole and taking action. Alinsky shared the potential of this power with new organizers when he stated if two percent of the population were organized, their collective power could be used to overthrow the government.²⁴⁵ This demonstrates the magnitude of "people power" since only a small number of people are needed to mobilize and take strategic action." Margaret Mead articulated this view when she wrote, "Never doubt that a small group of committed people can change the world. Indeed, it is the only thing that ever has."²⁴⁶

The result of these organized efforts lays the foundation for building and sustaining social change by recognizing that change comes through revolutionary action. A careful analysis of history demonstrates this point since significant changes in history have occurred as a result of revolutions.²⁴⁷ Revolutions require social action and a commitment to the greater good.²⁴⁸ "The price of democracy is the ongoing pursuit of the common good by all of the people."²⁴⁹ Each person plays an integral role in this pursuit by becoming a part of the social change movement.

Community organizing approaches offer guidance for sustaining social change. According to Alinsky, movement requires developing a "stable, disciplined, mass-based power

243. *Id.* at 51.

244. ALINSKY, *supra* note 234, at 181.

245. HOFFMAN, *supra* note 233, at 158.

246. Cheryl A. Maurana & Kim Goldenberg, *A Successful Academic-Community Partnership to Improve the Public's Health*, ACADEMIC MEDICINE, May 1996, at 430.

247. ALINSKY, *supra* note 234, at 3.

248. *Id.* at 9.

249. HOFFMAN, *supra* note 233, at xxv.

organization.”²⁵⁰ Empowering people initiates movement. This process of empowerment enhances each individual’s capacity to change the systems that impact their daily lives by becoming involved in the political processes and decision-making.²⁵¹ Alinsky recognized the need for empowerment and characterizes the lack thereof as a tragedy. Alinsky writes: “[T]here can be no darker or more devastating tragedy than the death of man’s faith in himself and in his power to direct his future.”²⁵² Community organizing approaches can breathe life into the community and the people. The community organizer is a facilitator in this process and the community is the driving force. “An organizer doesn’t have an actual set of responsibilities save that of putting responsibility of self-determination where it belongs, with the people themselves.”²⁵³ The people should lead the process of social change by initiating their power to act and own their shared destinies.

Alinsky offers a critique of the Civil Rights Movement that illustrates his premise of the need for building a mass-based power organization. Although the Civil Rights Movement claimed many victories, Alinsky posited that the movement lacked a powerful organizational base.²⁵⁴ Alinsky notes that the victories were won primarily based on external world political pressures and centralized around the efforts of a charismatic leader.²⁵⁵ He warned, “but the truth is that the civil-rights organizations have always been minuscule in actual size and power. Periodic mass euphoria around a charismatic leader is not an organization.”²⁵⁶ According to Alinsky, without an organization and mass power, social change can begin but may fall short in transforming systems and its overall sustainability is threatened.²⁵⁷

250. *Id.* at 72.

251. *Id.* at 22, 154.

252. HOFFMAN, *supra* note 233, xxvi.

253. *Id.* at 22.

254. *Id.* at 71.

255. *Id.* at 72.

256. *Id.* at 72.

257. ALINSKY, *supra* note 234, at 3.

IV. Conclusion

The social justice challenges of our time create a need to apply innovative and creative approaches to the practice of lawyering. This moves beyond traditional notions of lawyering to the promotion of a community-based, assets-based approach that emphasizes empowerment. The introduction of the theory of "new social justice lawyering" provided a framework for lawyers to play an active role in the process of social change in partnership with community members. It combined three theoretical frameworks: (1) social justice lawyering; (2) leadership; and (3) public policy advocacy to inform the work of lawyers who seek to build and sustain social change. Furthermore, "new social justice lawyering" rests upon the applied knowledge derived from a multidisciplinary approach and fosters an inter-professional model. For example, the lawyer is traditionally not trained in the capacity of serving as leader, policy entrepreneur, and coalition builder, however they can truly benefit from the exercise of the tactical tools employed by each of these professionals.

Moreover, it is essential for the "new social justice lawyer" to work with other professionals when engaging in social change initiatives. As evidenced in the change-oriented lawyering model, the "new justice lawyer" does not work in isolation but recognizes the need to work collaboratively with other professionals like the community organizer or social worker. This lawyer recognizes the value of each professional's contribution and seeks to destroy a sense of professional hierarchy. Instead, all contributors are viewed as equally valuable and an asset to the reform efforts.

The alignment of the three pillars of "new social justice lawyering" provides practical tools for effectuating social change in the 21st century. The experiences of those living at the margins of society are filled with complexity. A legal issue in a given situation may mask a broader social problem, like poverty. A systemic inequity that is embedded in public policy may bring about this social problem. Traditional litigation strategies are not the only tool to address these matters. The three pillars provide lawyers with additional tools to employ when engaging in social change efforts.

The first pillar, social justice lawyering, focuses on using the law as a tool to dismantle systems of oppression and create equal access

to justice. The second pillar challenges lawyers to develop their leadership skills and strengthen the leadership capacity of others. Within the leadership capacity, lawyers can aid in empowering others. This moves beyond serving a particular client to acknowledging that each person can serve as an invaluable contributor in the process of social change. Lawyers are challenged to explore the question: "Do you grow the people whom you lead?"

Finally, the third pillar is the foundation of systems change and policy reform. Public policy advocacy focuses on working with communities to organize and mobilize around social justice issues impacting their daily lives. This type of advocacy cultivates the transformational power of collective engagement with the goal in mind of fostering equitable policies. By applying the principles of "new social justice lawyering" lawyers can collaborate with marginalized communities to realize a vision of justice and equity.
